



DOCKET NO. 13039:90 (CRAN01-00090)  
Customer No. 23990

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of : David B. Whitten, et al.  
Serial No. : 09/935,935  
Filed : August 23, 2001  
For : SYSTEM FOR ACCOMPLISHING PRODUCT  
DETECTION (AS AMENDED)  
Group No. : 3651  
Examiner : K.H. Tran

**MAIL STOP ISSUE FEE**

ATTN: Kimberly Terrell  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REQUEST TO EXPEDITE ISSUANCE OF THE PATENT**

Applicant respectfully requests expedited issuance of the patent in the above-identified matter. Pursuant to MPEP § 708.02 (II), p. 700-122 (8<sup>th</sup> ed. rev. 1 February 2003), the undersigned has made a rigid comparison of a device actually on the market with the allowed claims in the application and, in the opinion of the undersigned, at least one allowed claim is unquestionably infringed. At least allowed independent claim 2 is unquestionably infringed by the Automatic Merchandising Systems Inc. ("AMS") Glass Front Merchandiser Models 35" and 39" Snack and Models VCB and VCF vending machines with the Sensit II vend sense mechanism, as documented by the associated Illustrated Parts Manual, L0076, REV. B (including particularly pages 2-26 and

**Match and Return**

ATTORNEY DOCKET NO. 13039:90 (CRAN01-00090)  
U.S. SERIAL NO. 09/935,935  
PATENT

2-27) and Illustrated Parts Manual, L0072, REV. C (including particularly pages 1-26 and 1-27), respectively.

The undersigned has both made and caused to be made a careful and thorough search of the prior art, and has a good knowledge of the pertinent prior art. In the opinion of the undersigned, the most pertinent prior art is already of record in the above-identified application and has been considered: US 4,252,250 issued February 24, 1981 to *Toth*, cited in Applicants' Information Disclosure Statement filed July 15, 2003; and US 6,384,402 issued May 7, 2002 to *Hair, III et al*, cited in Applicants' Information Disclosure Statement filed October 1, 2002. *Toth*, commonly owned with the subject application, is distinguishable over allowed independent claim 2 as teaching product detection at a product receiving position (or "delivery station"), not along a delivery path between a product storage position and a product receiving position. *Hair, III et al* is distinguishable, as argued during prosecution, as teaching only use of continuous planes of diffuse light reflected by a collector from the source to the detector, requiring measurement in changes of relative magnitude of the light received by a detector, rather than use of a plurality of discrete light beams such that interruption of at least one light beam may be employed to detect product delivery.

Accordingly, expedited issuance of the patent is respectfully requested.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at [dvenglarik@davismunck.com](mailto:dvenglarik@davismunck.com).



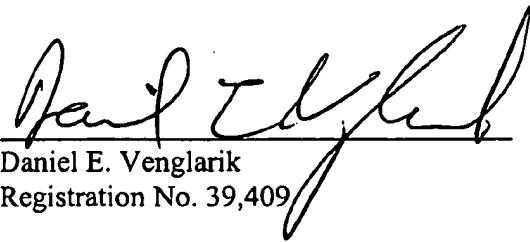
ATTORNEY DOCKET No. 13039:90 (CRAN01-00090)  
U.S. SERIAL NO. 09/935,935  
PATENT

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 3-9-04

  
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